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October 21, 1997

Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

Dear Commission:

Re: MM Docket No. 97-182;
In re Preemption of State and Local Zoning, Etc.

I am writing in response to the proposed rule making as outlined in the Notice adopted August 18, 1997 and released August 19, 1997. I am a resident of Jerome County, Idaho. Jerome County is located in southern Idaho on the Snake River Plain. It is bounded on the south by the Snake River canyon. Jerome County is primarily agricultural ground and the local economy revolves around agriculture.

I am a member of the local planning and zoning commission, but make these comments in my capacity as a private citizen and resident of the county. Because of the timing of our Planning and Zoning Commission meetings I do not have the opportunity to request approval of this communication by the Planning and Zoning Commission itself prior to your deadline. I mention my capacity as a planning and zoning commissioner only as an indication that I have some familiarity with local planning and zoning issues. The position of planning and zoning commissioner in Jerome County is an unpaid volunteer position. Membership is by appointment by the three elected county commissioners, the governing body of the county.

I have some serious reservations regarding the proposed rule that would entirely preempt local and state land use ordinances with respect to communication towers. The purported basis for the proposed rule is to aid the "speedy roll-out" of broadcast DTV. Yet, the proposed rule does not appear to be limited to DTV antennas but includes communication antennas in general. While those of you in Washington, D.C. may have concluded that this speedy roll-out is of sufficient urgency that it trumps the concerns of the local people involve, I wish to inform you that not everyone agrees with that conclusion. I for one, certainly do not agree with the conclusion that the speedy roll-out of DTV justifies eliminating all local control over the siting of communications towers. This proposed rule appears to be one more case of Washington, D.C. determining an "one size fits all" solution.

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I will cite an example of the potential problems your rule causes in our community which it would not necessarily pose in others. As I stated, our local economy is agricultural based. We not only grow the potatoes for which Idaho is famous, but beans, corn, grain, sugar beets, and hay. Jerome County also has a large dairy industry. Spray planes are commonly and regularly used for the application of farm chemicals. For various reasons, which I will not go into here, aerial application is frequently the preferred alternative of application of agricultural chemicals. The presence of tall structures, including communications towers, impacts the ability to make these aerial applications. Spray plains frequently fly well below 100 feet in altitude. The location of a broadcast tower chosen by the broadcast company with no concern or consideration given to local concerns, such as interference with aerial spraying is a bad idea. You effectively give a landowner (a broadcasting company) the ability to severely impact its neighbors' use of his property. I do not know what is contained in the Petition which led to the Notice of Proposed Rule Making. I have not been provided copy, nor do I have time to find one. I will bet, however, a large sum against a rather small one that it does not mention this potential impact on the rights of others. Certainly across this country with its varied topography and population density, there are bound to be similar problems not necessarily apparent to someone in Washington, D.C.

In the Notice of Proposed Rule Making it is stated that the commission seeks a detailed record of the nature and scope of broadcast tower sighting issues. Unfortunately, being simply an individual, I do not have the resources or the time to provide such a detailed record. I can, however, speak of the experience in the county in which I live. I have been serving as a planning and zoning commissioner for nearly three years. In that time we have entertained applications for the siting of three broadcast facilities. We heard information from the applicants and from other interested parties. In all instances the application was granted. The broadcasters seeking permission to site their towers were put through no expense or delay different from that occasioned by the ordinary citizen. Before you assume the role of local land use planner for Jerome County, please make sure someone proves they have a problem with Jerome County.

If there is in fact a problem with obstreperous local governments, the solution should be to deal with those local governments, not the wholesale preemption of local zoning control. What may be a good idea in Boston, Chicago, or Washington, D.C., is not necessarily a good idea in Jerome County, Idaho.

Finally, from the outside looking in, this appears to be a self imposed, manufactured crises for the purpose of further eroding local control of the daily life of the citizens of this country. The speedy roll-out, which is creating this "crises" and thus the necessity of wholesale elimination of the consideration of state and local government authorities, is apparently based on an earlier decision that digital broadcast might not survive the competition from other sources of digital television. Setting aside the question of whether or not this is accurate, and if accurate whether it is undesirable,

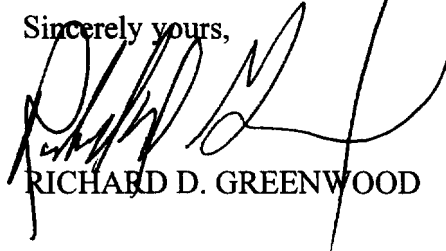
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there is another solution. If the playing field needs to be leveled vis-a-vis the free, over the air broadcast versus satellite and cable, then you could as easily prohibit the roll-out of satellite and cable transmission. If the broadcast networks cannot take the heat of competition, the solution is not necessarily to run roughshod over folks like me in the boondocks. An alternative is to simply delay the roll-out of any DTV until such time as the infrastructure is in place for the broadcast industry. Of course the competition may not be happy.

I am willing to wait, if necessary, to obtain the benefits of this new technology so that my community, and others like it, may have a say in the process. Local people have legitimate concerns over control of growth and resolving the friction between incompatible adjoining uses of land. Taken as a whole, these concerns are at least as legitimate as those of corporate America and the lawyer/lobbyists in their employ.

I am but one individual from a sparsely populated rural state. To the extent the voice of one person carries any weight, count me amongst the nay sayers on your proposed rule.

Sincerely yours,



RICHARD D. GREENWOOD

RDG:jef

cc: Representative Mike Crapo
Senator Larry E. Craig
Senator Dirk Kempthorne

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COMMISSIONERS
JOHN R. ADAMS
LYLE WOODBURY
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OFFICE OF THE COUNTY COMMISSIONERS

COUNTY OF CASSIA

1459 Overland Avenue
BURLEY, IDAHO
208-678-7302

CLERK OF THE COURT
DARRELL M. ROSKELLEY
PHONE: 208-678-4367

October 20, 1997

Office of the Secretary
Federal Communication Commission
Washington, D.C. 20554

Re: Comments Regarding MM Docket 97-182
Proposed Rule in re Preemption of State and Local
Zoning and Land Use Restrictions on the Siting, Placement
and Construction of Broadcast Station Transmission Facility

Dear Sirs:

We are writing to you as the Planning and Zoning Commission and Board of
County Commissioners of Cassia County, Idaho.

We would request that you take into consideration the following comments and
concerns which we have regarding the proposed rule pending in this matter.

1. We believe that the proposed, Preemption Rule, is overly broad and
unnecessary in light of the realities of the local land permitting process involved in such matters.

We believe that the petitioners are using scare tactics and the opportunities created
by the DTV mandate and deadlines to attempt to remove state and local authorities from the land
use decisions in the siting of these matters entirely.

While we understand the need for expeditious handling of these matters,
especially as regards to the DTV construction, we do not believe that the broad preemption
powers requested by the petitioners are necessary.

While we are opposed to preemption in any form, we believe that a rule which
would preempt state and local involvement upon a failure to act within a reasonable period of
time would be much more appropriate than blanket preemption from the outset.

2. In our county in the last two years we have had three broadcast tower siting

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petitions filed. All of the petitions filed were permitted and the entire process from the date of application through the hearing and issuance of the permit was completed within thirty days. We have no reason to believe that this type of processing of tower applications cannot continue in our jurisdiction. At the same time, although these matters are handled very expeditiously, it does give us an opportunity to meet local concerns regarding placement, siting, access and appearance of the tower. We have found the applicants to be very amenable to our suggestions and requirements in this regard.

Our experiences have been very positive to date. We are not within the top thirty television market areas but we believe we can continue to have an ongoing positive relationship with the broadcast tower siting entities.

3. We do not believe that the DTV build out schedule will receive any impedance in our area, nor do we believe any difficulties are now or will be faced in the context of the DTV build out as necessary in our area.

4. We believe that if a preemption rule is developed for the DTV build out it should relate only to DTV transmission facilities and the relocations of those FM radio facilities displaced by DTV and not made applicable to all broadcast facilities. The system has been working well to date, and should continue to work in the future in other areas. Further, it should apply only where the build out schedule is most rigorous.

5. We believe the commission actions to preempt state and local restrictions regarding exposure to RF emissions from broadcast transmission facilities is probably appropriate because of the greater expertise held by the Federal Communications in this area. However, we do not believe that there are any other circumstances in which it is appropriate for the commission to preempt state and local regulation of the siting or construction of transmission facilities, including local regulations for esthetic purposes.

6. We believe that the time frames proposed by the petitioners in the proposed rule for preemption are reasonable. Specifically, we have even more strict time frames in our current ordinance and they are totally workable. Anywhere from forty-five (45) to ninety (90) days is a realistic time for ruling upon a broadcast tower application.

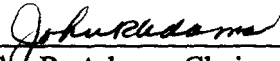
Our current procedure is that an application for a conditional use permit is filed by the applicant desiring to site a broadcast tower. A \$100.00 filing fee for publication costs is paid with that application. The application is immediately processed. Notice is published and mailed to interested parties, and a hearing would be held within thirty (30) days. A decision would normally be made at/or within a week after the hearing, and must be made within at least fifteen (15) days from the date of the hearing. This procedure has been used for several years and has served the County and the broadcast facility tower companies very well to date.

7. We believe that an appropriate role for the commission in resolving disputes between localities and licensees would be that of a mediator, because of the additional expertise held by the Federal Communications Commission in these issues.

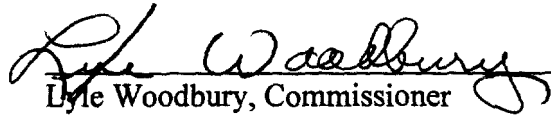
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Thank you for the opportunity to comment and for your review of these comments. We look forward to your response.

Cassia County Planning Commission



John R. Adams, Chairman



Lyle Woodbury, Commissioner



Paul Christensen, Commissioner